IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

Writ Petition NO.9368 of 2006

Between :

Visakhapatnam Dock Labour Board,
Rep. by its Deputy Chairman,
Karmika Jyothi,
Port Area, Visakhapatnam .. Petitioner

And

Commissioner of Income Tax – I,
Visakhapatnam and two others .. Respondents

Dated : 19th June, 2006

JUDGMENT : (per JC,J)

Writ Petition is filed with the prayer as follows :

> "For the reasons stated in the accompanying affidavit the petitioner herein pray that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in not granting stay of collection of Income Tax of the petitioner for the A.Y. 2002-03 in proceedings No.Addl. CIT/R-1/Stay/2005-06, dt. 24.02.2006 as illegal and sustainable under law and consequently to restrain the respondents from collecting the taxes for the A.Y. 2002-03 from the

petitioner and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case."

The petitioner – Visakhapatnam Dock Labour Board was recognized as a Charitable Trust for the purpose of the Income Tax Act and an exemption in terms of Sections 11 and 12 of the Income Tax Act was granted in favour of the petitioner in the year 1988. However, it appears by an order dated 25.3.2005, the 1st respondent declined to continue the exemption with effect from the assessment year 2002-03. Aggrieved by the decision of the 1st respondent, it appears the petitioner preferred an appeal before the Tribunal and the same is pending. However, no interim order in favour of the petitioner was passed in the said appeal. As there was no interim order in the said appeal, the assessing authority proceeded to make an assessment of the income of the petitioner of the above mentioned assessment year and found that the petitioner is liable to pay tax of an amount of Rs.10,26,76,219/- and also found the petitioner is liable for interest under Section 234B of an amount of Rs.5,18,51,490/-, in all making an assessment of Income Tax liability of the petitioner for the said year as Rs.15,45,27,709/-. Aggrieved by the said order, it appears the petitioner once again preferred an appeal before the Commissioner (Appeals), Visakhapatnam and the same is said to be pending. Pending the said appeal, the petitioner filed an application before the 2nd respondent seeking stay of the collection of the tax pursuant to the assessment order referred to earlier. The said application was rejected by an order dated 24.2.2006. Hence the present writ petition.

Heard Sri P.Raghuram, learned counsel for the petitioner and Sri S.R.Ashok, learned Senior Standing Counsel for the Department.

In the facts and circumstances of the case, we are of the opinion that the matter can be disposed of at the admission stage by directing the respondents not to take any further steps pursuant to the assessment order dated 27.12.2005 pertaining to the assessment year 2002-03 of the petitioner herein for recovering the amounts found due in the assessment on condition the petitioner deposits an amount of RS.10 Crores. If any amount is already paid with regard to the liability of the above mentioned assessment year, the same shall be given credit to. The said amount is to be paid by the petitioner within a period of six weeks from today.

With the direction as above, the writ petition is disposed of.

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knk 19.06.2006